

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
AUG 18 2021

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

UNITED STATES OF AMERICA

§

V.

§

CRIMINAL NO. 6:21-CR 66

§

JUDGES JDK-KNM

§

JOHNNY RAY SMITH, JR.

§

SEALED

**INDICTMENT**

THE UNITED STATES GRAND JURY CHARGES:

**COUNTS ONE-FIVE**

Violation: 21 U.S.C. § 841(a)(1) (Possession with Intent to Distribute and Distribution of Methamphetamine)

On or about the dates listed below, in the Eastern District of Texas, the Defendant listed below, knowingly and intentionally possessed with intent to distribute and distributed actual methamphetamine, a Schedule II controlled substance, in an amount listed below:

Count	Date	Defendant	Quantity
1	April 8, 2021	Johnny Ray Smith, Jr.	5 grams or more, but less than 50 grams of actual methamphetamine
2	April 13, 2021	Johnny Ray Smith, Jr.	5 grams or more, but less than 50 grams of actual methamphetamine
3	April 27, 2021	Johnny Ray Smith, Jr.	5 grams or more, but less than 50 grams of actual methamphetamine

4	June 1, 2021	<b>Johnny Ray Smith, Jr.</b>	5 grams or more, but less than 50 grams of actual methamphetamine
5	June 3, 2021	<b>Johnny Ray Smith, Jr.</b>	50 grams or more of actual methamphetamine

In violation of 21 U.S.C. § 841(a)(1).

**COUNT SIX**

Violation: 18 U.S.C. § 924(c)  
(Use, carrying, and possession of a firearm during and in furtherance of a drug trafficking crime)

On or about June 3, 2021, in the Eastern District of Texas, defendant **Johnny Ray Smith, Jr.**, did knowingly use and carry a firearm during and in relation to, and did knowingly possess a firearm in furtherance of, a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with intent to distribute methamphetamine as charged in Count Five of this indictment. The firearm was a Taurus, model 85, .38 caliber revolver.

In violation of 18 U.S.C. § 924(c).

**COUNT SEVEN**

Violation: 18 U.S.C. § 922(g)(1)  
(Felon in Possession of a Firearm)

On or about June 3, 2021, in the Eastern District of Texas, defendant **Johnny Ray Smith, Jr.**, did knowingly possess, in or affecting interstate or foreign commerce, a firearm, to wit: a Taurus, model 85, .38 caliber revolver while knowing he had been

convicted of an offense punishable by a term of imprisonment exceeding one year, specifically:

1. Possession of a Controlled Substance, a felony, in the 4th District Court of Rusk County, Texas, in cause number CR99-070, on January 27, 2000;
2. Possession of a Controlled Substance, a felony, in the 4th District Court of Rusk County, Texas, in cause number CR10-165, on January 15, 2011;
3. Delivery of a Controlled Substance, a felony, in the 4th District Court of Rusk County, Texas, in cause number CR12-081, on June 12, 2012;
4. Felon in Possession of a Firearm, a felony, in the United States District Court for the Eastern District of Texas, in cause number 6:21-CR-59-12, on May 22, 2013; and
5. Possession of a Controlled Substance, a felony, in the 4th District Court of Rusk County, Texas, in cause number CR17-182, on August 18, 2017.

In violation of 18 U.S.C. § 922(g)(1).

**NOTICE OF INTENT TO SEEK CRIMINAL FORFEITURE**

**Pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853 & 28 U.S.C. § 2461**

As the result of committing one or more of the foregoing offenses alleged in this indictment, the defendant herein shall forfeit to the United States, pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853 and 28 U.S.C. § 2461:

1. any property constituting, or derived from, and proceeds the defendant obtained, directly or indirectly, as the result of such violations;
2. any of the defendant's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violations, and/or;

**Firearm/Ammunition:**

Any and all firearms, ammunition and accessories, including, but not limited to, the following:

1. a Taurus, model 85, .38 caliber revolver, bearing serial number JX77184;
2. Five (5) rounds of Winchester .38 caliber ammunition;
3. Twenty-one (21) rounds of assorted .38 caliber ammunition;
4. Two (2) extended magazines;
5. Twenty-Three (23) rounds of Maytech .380 caliber ammunition;
6. Fifteen (15) rounds of Remington 7.62 x 39mm caliber ammunition; and
7. One hundred forty-four (144) assorted 12-gauge shotgun shells.

**Cash Proceeds:**

A sum of money equal to \$10,000.00 in United States currency and all interest and proceeds traceable thereto, representing the amount of proceeds obtained by the defendant as a result of the offense(s) alleged in this indictment, for which the defendant is personally liable.

**Substitute Assets**

If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the court;

- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property, including but not limited to all property, both real and personal owned by the defendant.

By virtue of the commission of the offenses alleged in this indictment, any and all interest the defendant has in the above-described property is vested in the United States and hereby forfeited to the United States pursuant to 18 U.S.C. § 924(d), 21 U.S.C. § 853 and 28 U.S.C. § 2461.

A TRUE BILL

  
\_\_\_\_\_  
GRAND JURY FOREPERSON

NICHOLAS J. GANJEI  
ACTING U.S. ATTORNEY

  
\_\_\_\_\_  
LUCAS MACHICEK  
Assistant United States Attorney

  
\_\_\_\_\_  
Date

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**NOTICE OF PENALTY**

**COUNTS ONE-FIVE**

Violation: 21 U.S.C. § 841(a)(1)

Penalty: (A) If 50 grams or more of methamphetamine (actual):

Imprisonment for a term of not less than 10 years or more than life; a fine not to exceed \$10,000,000, or both; and a term of supervised release of at least 5 years.

(B) If more than 5 grams, but less than 50 grams of methamphetamine (actual):

Imprisonment for a term of not less than 5 years or more than 40 years; a fine not to exceed \$5,000,000, or both; and a term of supervised release of at least 4 years.

Special Assessment: \$100.00

**COUNT SIX**

Violation: 18 U.S.C. § 924(c)

Penalty: Imprisonment for a term of not less than 5 years or more than life, which must be served consecutively to any other term of imprisonment, a fine not to exceed \$250,000, or both, and supervised release of not more than 5 years.

Special Assessment: \$100.00

**COUNT SEVEN**

Violation: 18 U.S.C. § 922(g)(1)

Penalty: Imprisonment for not more than 10 years, a fine not to exceed \$250,000, or both, and supervised release of not more than 3 years.

Special Assessment: \$100.00